



4310-05-P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 938

[PA-166-FOR; Docket ID: OSM-2017-0008
S1D1S SS08011000 SX064A000 189S180110;
S2D2S SS08011000 SX064A000 18XS501520]

Pennsylvania Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSMRE), Interior.

ACTION: Proposed rule; reopening of the public comment period and notice of public hearing.

SUMMARY: We, the Office of Surface Mining Reclamation and Enforcement (OSMRE), are reopening the public comment period and will be holding a public hearing on the proposed amendment to the Commonwealth of Pennsylvania's approved regulatory program (the Pennsylvania program) published on March 12, 2018. The comment period is being reopened in order to afford the public additional time to comment and to allow for a public hearing. Approximately sixty citizens asked to both extend the comment period and for a public hearing. We are also notifying the public of the date, time, and location for the public hearing. Through

this proposed amendment, Pennsylvania seeks to revise its Bituminous Mine Subsidence and Land Conservation Act (BMSLCA) to include language clarifying the circumstances where a finding of presumptive evidence of pollution is not warranted under the Commonwealth's Clean Streams Law.

DATES: We will accept written comments until 4 p.m., Eastern Standard Time (EST), [Insert date 30 days after the date of publication in the FEDERAL REGISTER]. The public hearing will be held on May 1, 2018, from 5:30 p.m. until 7:30 p.m. EST.

ADDRESSES: You may submit comments, identified by "PA-166-FOR; Docket ID: OSM-2017-0008", by either of the following two methods:

- *Federal eRulemaking Portal:* [http:// www.regulations.gov](http://www.regulations.gov). The proposed rule has been assigned Docket ID: OSM-2017-0008. If you would like to submit comments through the Federal eRulemaking Portal, go to <http:// www.regulations.gov> and follow the instructions.
- *Mail/Hand Delivery/Courier:* Mr. Ben Owens, Chief, Pittsburgh Field Division, Office of Surface Mining Reclamation and Enforcement, Three Parkway Center, Second Floor, Pittsburgh, PA 15220.

Instructions: For detailed instructions on submitting comments and additional information on the rulemaking process, see III. Public Comment Procedures in the **SUPPLEMENTARY INFORMATION** section of the proposed rule published on March 12, 2018.

Public Hearing: The public hearing will be held at the Double Tree by Hilton Pittsburgh-Green Tree, 500 Mansfield Avenue, Pittsburgh, Pennsylvania 15205; phone number: 412-922-8400, on Tuesday, May 1, 2018, from 5:30 p.m. to 7:30 p.m. EST. Those wishing to provide oral testimony need to register between 5:00 p.m. and 5:30 p.m.

Docket: For access to the docket to review copies of the Pennsylvania regulations, the relevant amendment, a listing of any scheduled public hearings, and all written comments received in response to this document, you must go to the address listed below during normal business hours, Monday through Friday, excluding holidays. You may receive one free copy of the amendment by contacting OSMRE's Pittsburgh Field Division; or the full text of the program amendment is available at www.regulations.gov.

In addition, you may review a copy of the amendment during regular business hours at one of the following locations:

Mr. Ben Owens, Chief, Pittsburgh Field Division, Office of Surface Mining Reclamation and Enforcement, Appalachian Regional Office, 3 Parkway Center, Second Floor, Pittsburgh, PA 15220, Telephone: (412) 937-2827, E-mail: bowens@osmre.gov

Mr. William Allen, Chief, Permitting and Compliance, Bureau of Mining and Reclamation, Pennsylvania Department of Environmental Protection, Rachel Carson State Office Building,

P.O. Box 8461, Harrisburg, PA 17105-8461, Telephone: (717)783-9580, E-Mail:

wallen@pa.gov

FOR FURTHER INFORMATION CONTACT: Mr. Ben Owens, Chief, Pittsburgh Field Division, Telephone: (412) 937-2827. E-mail: bowens@osmre.gov.

SUPPLEMENTARY INFORMATION:

On March 12, 2018, we published a proposed rule that would revise the Pennsylvania program. By letter dated August 4, 2017 (Administrative Record No. PA 899.00), Pennsylvania sent us an amendment to its program under SMCRA (30 U.S.C. 1201 et seq.). The Pennsylvania General Assembly recently amended the BMSLCA to include language clarifying the circumstances where a finding of presumptive evidence of pollution is not warranted under the Commonwealth's Clean Streams Law.

A. By way of State Bill 624, Pennsylvania proposes additional language to the BMSLCA, Section 5 (i) that states: "In a permit application to conduct bituminous coal mining operations, subject to this act, planned subsidence in a predictable and controlled manner which is not predicted to result in the permanent disruption of premining existing or designated uses of surface waters of the Commonwealth shall not be considered presumptive evidence that the proposed bituminous coal mining operations have the potential to cause pollution as defined in section 1 of the act of June 22, 1937 (Pub. L. 1987, No. 394), known as "The Clean Streams Law".

B. Further, Pennsylvania proposes additional language to BMSLCA, Section 5 (j) as follows: “The provisions of subsection (i) shall only apply if: (1) a person submits an application to conduct bituminous mining operations subject to this act to the department that provides for the restoration of the premining range of flows and restoration of premining biological communities in any waters of this Commonwealth predicted to be adversely affected by subsidence. The restoration shall be consistent with the premining existing and designated uses of the waters of this Commonwealth; and (2) the application is approved by the department.”

During the initial comment period, (Administrative Record Number PA 899.05), we received multiple citizen requests to extend the comment period and to hold a public hearing on the amendment. We are reopening the public comment period to afford the public more time to comment on the amendment and to allow enough time to schedule and hold the hearing. The date, time and location for the public hearing may be found under **DATES** and **ADDRESSES**.

The hearing will be open to anyone who would like to attend and/or testify. The primary purpose of the public hearing is to obtain your comments on the proposed rule so that we can prepare a complete and objective analysis of the proposal. Those wishing to provide oral testimony need to register between 5:00 p.m. and 5:30 p.m. at the hearing location. Other attendees are not required to register. Written testimony will also be accepted. The hearing officer will conduct the hearing and receive the comments submitted. Comments submitted during the hearing will be responded to in the preamble to the final rule, not at the hearing. We appreciate all comments, but those

most useful and likely to influence decisions on the final rule will be those that either involve personal experience or include citations to, and analyses of, the Surface Mining Control and Reclamation Act of 1977, its legislative history, its implementing regulations, case law, other State or Federal laws and regulations, data, technical literature, or relevant publications.

At the hearing, a court reporter will record and make a written record of the statements presented. This written record will be made part of the administrative record for the rule. If you have a written copy of your testimony, we encourage you to give us a copy. It will assist the court reporter in preparing the written record. Any disabled individual who needs reasonable accommodation to attend the public hearing is encouraged to contact the person listed under **FOR FURTHER INFORMATION CONTACT.**

Dated: April 5, 2018.

Thomas D. Shope, Regional Director

Appalachian Region

[FR Doc. 2018-09767 Filed: 5/7/2018 8:45 am; Publication Date: 5/8/2018]